

BOARD OF ZONING APPEALS
MINUTES
June 5, 2007

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas was held at 1:30 p.m., on June 5, 2007 in the Planning Department Director's Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, and Kansas.

The following board members were in attendance:

BICKLEY FOSTER, DWIGHT GREENLEE, ERMA MARKHAM, STEVEN ANTHIMIDES and JUSTIN GRAHAM

Board members absent:

JAMES RUANE and JOSHUA BLICK.

City of Wichita staff present:

HERB SHANER – Office of Central Inspection present.

SHARON DICKGRAFE – Law Department

The following Planning Department staff members were present:

JESS MCNEELY, Secretary.

YOLANDA ARBERTHA, Recording Secretary.

FOSTER We will start the BZA hearing for June 5, 2007 at 1:32pm. We have five members present. The first items on our agenda are the minutes for April 24, 2007 and May 22, 2007. Does anyone have any questions or changes?

MARKHAM I'd like to make a motion.

FOSTER Are there any changes?

MARKHAM I move that the minutes be accepted after any changes or corrections.

GREENLEE Seconded.

FOSTER All in favor say aye.

Motion carries 5-0 Unanimously

FOSTER We are now ready to hear case BZA 2007- 00022. This is to hear two variances to increase a sign to 175 square feet and to increase the height to 35 feet. Jess, are you ready to present your report?

MCNEELY **BACKGROUND:** The applicant requests two variances for two signs. The first variance would increase the maximum size of two signs from 25 and 48 square feet to 175

square feet. The second variance would increase the maximum height for the same two signs from 20 to 35 feet. The signs are for the new Dugan Library and Campus Center on Newman University Campus. The signs are intended to make the library and campus center building a visible landmark on the campus, and to assist with way finding on the campus. The eastern sign will face open spaces and parking areas, and the southern sign will face open space and other campus buildings.

Within “B” Multi-Family zoning, the Sign Code permits identifications signs up to 25 square feet in area except along designated collector, arterial, or expressway streets, where the maximum sign area is 48 square feet. The Sign Code also permits signs up to 20 feet in height and limits signs to indirect or internal illumination of white light.

Most of the Newman Campus is zoned B, which permits universities by right. The DeMattis Fine Arts Hall and O’Shaughnessy Sports Complex, immediately north of this site and visible from Kellogg, received a similar variance in 2000 (BZA2000-34). South and west of this site are B zoned Newman Campus buildings. East of the site will be campus parking, further east is Southwest Boulevard. Across Southwest Boulevard from the campus are “GC” General Commercial and “TF-3” Two-family Residential zoned residences; the residences do not face the campus or the proposed signs.

ADJACENT ZONING AND LAND USE:

NORTH	“B“	University campus
SOUTH	“B“	University campus
EAST	“B“, “GC“, “TF-3”	University campus, single and two-family residences
WEST	“B“	University campus

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff’s opinion that this property is unique, as the proposed signage is for a three-story university library and campus center within “B” Multi-family zoning (which restricts signage size). The large building is proposed to be a campus landmark, and is unique within B zoning, which primarily houses multi-family residential development. A campus building immediately north of this site received a similar variance in 2000. A site this large, at this location with proximity to highways, could house numerous businesses, and each business would be allowed separate signage within square footage limits.

ADJACENT PROPERTY: It is staff’s opinion that granting the requested variance for increased sign area and height will not adversely affect the rights of adjacent property owners, as the overall sign size and height will be similar to existing signage on nearby campus buildings. Likewise, the proposed signs do not face any off-campus residences.

HARDSHIP: It is staff’s opinion that the strict application of the provisions of the sign code would constitute an unnecessary hardship upon the applicant, as 20-foot tall, 25 and 48 square foot signs may not be sufficient for visibility across an 80 acre campus. Visibility from across

the campus is necessary for this facility as many visitors are from outside the immediate neighborhood, and many are from out of town.

PUBLIC INTEREST: It is staff's opinion that the requested variance for increased sign size and height would not adversely affect the public interest, as improvements to a university campus, to include large-scale libraries and campus centers, would serve in the community interest. The requested signage size and height is at an appropriate, legible scale relative to the larger building.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for increased sign size and height would not oppose the general spirit and intent of the Sign Code, as the signage will make it easier to locate the important facility, and the signage size and height is within reasonable limits. The "B" Multi-family restriction of sign size to 25 and 48 square feet, at 20 feet in height, is intended for smaller apartment complexes and medical offices, and does not consider institutions of this size and height within larger campus settings.

RECOMMENDATION: It is staff's opinion that the requested sign size and height increase would be appropriate for identification of a library and campus center on a large university campus. Should the Board determine that conditions necessary to the granting of the variance exist, then the Secretary recommends that the variance to permit two 175 square foot signs, at a 35 foot maximum height, be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

Are there any questions for staff? The applicant is here to answer any questions.

FOSTER Okay we will now hear from the applicant.

MCNEELY If there are any particular slides you want me to return to, I can help you with that.

DRESSELHAUS Go back to the original Master Plan, thank you.

MARK DRESSELHAUS, I am Vice President for Finance Administration with Newman University. I think Jess did an excellent job of addressing how these signs fit into this site and also to the way we were thinking. I just want to go back to the history. About four and a half years ago, we had a library on campus. That library suffered a structural failure. It was probably the design and there was some subsoil movement of some type and the building became useless to us.

We relocated all our books out. We then embarked upon a fund raising campaign, and this was a 14 million campaign that was aided by the City of Wichita. The City's part was the agreement to relocate McCormick around to the north of campus making this building a lot more internal to the campus itself. During that campaign, John and Mary Dugan made a very generous gift to this Library. I will say it is not just a Library but also a student center and a conference center that will facilitate a little more than 400 people. Also, it contains our bookstore. Therefore, it will be the center of the campus or the hub of our campus and the life of the campus. The library is represents more than the academic programs on the campus but the educational processes of the campus. That building is getting close to reality. We hope it will be finished in late July, that is our target at this point. This is a major project for us and it represents and is a real step forward for Newman University made possible by a lot of people but largely by John and Mary Dugan. I think as stated the signage, if you go back and look at the Newman University sign that was on the O'Shaughnessy Hall over on Kellogg, one of the questions asked at that time when I went to received the variance, did we want some big commercial sign or a sign that flashed and does all the extra stuff. We are a college campus and we want signs to be appropriate to the size of our buildings and tasteful so that it will fit in with the design of the college campus community as well as the overall community. In our opinion, that was the case when we received the first variance at O'Shaughnessy Hall on Kellogg. This is a big building. It is two stories with a pitched roof. We think this signage is proportional to the size of the building. I will answer any questions.

FOSTER I have one question. How comparable is this sign to other signs on the campus? Do you have any sign policy?

DRESSELHAUS We do not have a sign policy per se. There is a type of lettering that we use. We use a variety of types of signs. Again this sign is size to the size of the building. We wanted it to be proportionate in size. This is similar to the O'Shaughnessy Hall. We have the Maybe Center that has a somewhat smaller sign because it is our cafeteria and it has a smaller building. We are building a couple of new residence halls and if you see this building here in the university zone and we did a zone change for that property when we got the opportunity. Those signs were built to match the code and the signage there will be just our logo. At this point, we are not doing anything that is flashy, neon or represents garishness, as it is a residence hall and we want something tasteful and appropriate as well as giving it some identification. The signs all vary on campus.

FOSTER Out of curiosity, how many full and part-time students attend there?

DRESSELHAUS We have 2,100 students in undergraduate including the evening programs and graduate programs. Full time students are around 1600 or 1700 students.

FOSTER Does anyone have a question for Mr. Dresselhaus?

DICKGRAFE I have a question for Mr. Dresselhaus, just for clarification for the record. I am assuming by the Conference Center there will be people who are not necessarily students that will need to access this building.

DRESSELHAUS That is correct. If you go back to the slide with the parking lot, there will not be any additional signage that will identify it as a conference center so all of our publication will refer to this building by name.

FOSTER Are there any more questions from staff? I like to ask if you are in agreement with the conditions set out by staff?

DRESSELHAUS Yes.

FOSTER One of our problems Mr Dresselhaus is Jess does such a good job no one has any questions.

DRESSELHAUS That is pretty good job. One of our risk is getting up and saying too much.

FOSTER I have been accused of that also. Is there anyone else here to speak? If not, I will close the public portion of the hearing and confine the discussions to the board. Board what say you?

GREENLEE I will move that the board accept the findings of facts as set forth in the secretary's report and that all five conditions set out in section 2.12.590 B to be of the City Code as necessary for the granting of a variance have been found to exist and that the variance be granted subject to the conditions.

ANTHIMIDES Seconded.

DICKGRAFE I need to clarify was that a motion for both variances?

GREENLEE Yes

ANTHIMIDES Seconded

FOSTER All in favor say aye. Anyone against say nay.

Motion carries 5-0 unanimously.

FOSTER You will receive a resolution. Are there any other questions? You can now get a permit. Thank you for coming back.

FOSTER Do we have a report from Central Inspection?

Herb Shaner, Central Inspections, Galachia Medical Properties, 2610 N Woodlawn, "GO" General Office, applied to get a variance to increase sign from 32 to 36 square feet. That is done. Permits have been pulled and job installed and it is okay. Another one for Galachia at 2610, was a variance to the sign code for internal illumination to the building identification sign that projects more than 2 inches and that has been completed, permits pulled, lights installed, everything is okay.

MARKHAM What building is that?

SHANER To the Emergency Room building at the south end of the property.

MARKHAM Same Hospital.

SHANER Next was the ball parking for the school board at South High by Expressway 235, They put in 165 spaces and 6 handicap and everything is marked and signed. It is done.

GREENLEE I was wondering if you observed a crowd there and whether that alleviated the street parking. That was one of the complaints made was that during games cars were parked in front of residential houses.

SHANER I want to report on our soccer field at 29th and Greenwich. I talked with Larry Kupper or Doug Kupper. They had developed already and it is in a 3 phase process. However, they have not started anything yet.

DICKGRAFE When was that? 2004?

SHANER January 04.

MILLER Isn't it generally a year?

FOSTER We need to make a request.

MARKHAM 29TH and what?

SHANER Greenwich.

FOSTER They should make a request before it becomes null and void. Have they past that year date?

SHANER Yes.

DICKGRAFE We may need to do some planning on bringing them back before the board.

FOSTER How about an unusual fee.

GREENLEE I would settle for coffee and cokes.

DICKGRAFE You all are talking about monetary compensation to board members, do not make me nervous.

FOSTER Jess, look at the letter that we send out. Does it tell people to reapply within the time-limits?

MCNEELY Right. The letter that goes out has copy of the resolution, and that has the conditions of the variance. If someone comes back and asks for an extension after the deadline has elapsed, their variance does not yet exist if they have not met their conditions. They will have to request an extension.

FOSTER They should be very aware of this particularly if the stipulations change under new regulations. They need to be made aware.

MARKHAM Did I hear you say they pulled the permit?

MCNEELY If this is for a park, this will be a lot different from built sites where a certificate of occupancy is issued. OCI can hold the certificate of occupancy for their facility until they fulfill all of the requirements. Obviously, a park is a lot different. I am not aware that they pulled any permits for that facility.

DICKGRAFE Have they constructed the soccer fields?

SHANER The soccer fields are done. They are playing on it.

DICKGRAFE But there is no parking?

SHANER No parking, but there is no parking for the baseball diamonds across the street.

MCNEELY So, the variance was for the expansion of baseball diamonds. Are the baseball diamonds there yet?

SHANER No.

DICKGRAFE Staff can look at that and get back and report back to you.

FOSTER Do you have more Herb?

SHANER The last one, a variance to reduce on-site parking to provided from 55 by 7 spaces to 48 spaces. This is at NW corner of 22nd and Broadway. Property of the church, Lady of Perpetual Help for they kids meeting place, they did file an off-site covenant agreement with the office of central inspections for the use of the activity center. They got the parking marked at the activity center; they have their sign ADA requirements posted. They met their requirements.

MARKHAM You got an A+ today.

FOSTER How are they doing with the sign on the East side of Maize Rd? The Doctor 's office.

SHANER That is in court again tonight.

GREENLEE Is that the Randy Dean thing?

SHANER Yea.

FOSTER What they appeal it to court?

DICKGRAFE He has been cited for having the illegal sign up. I think we may have to take legal action to make him take the sign down.

FOSTER He has a problem with a client that wants to keep it up.

McNEELY He's in court now but he never appealed the denial of his variance. So, he is in court over the fact that he is violating the sign code. This body accepted a variance request and this body denied the request. He had the option to appeal the denial but he did not appeal the decision. He is now going to municipal court about having an illegal sign. He is not fighting the fact that this body denied his variance.

FOSTER Not on the agenda here, but I did ask Jess if he would remind us again about our meeting dates. Do you have some comments?

MCNEELY I have given everyone a copy of the schedule and this is not the first time I have given you this calendar, as I am positive that you received one when you approved it at the beginning of the year. We are normally the last Tuesday of the month for City BZA. We have met most months this year. We had a hard time this past month of May meeting our quorum requirements. That is why we had to reschedule to this special meeting today. Our applicant was gracious in agreeing to a special meeting today. I appreciate everyone for making this special meeting today. If you would like to avoid special hearings in the future, we need everyone to come. I will tell you right now. We do not have a case scheduled for July. We are in June now and we do not have any cases filed for

our regularly schedule BZA hearing for June. Here is the 2007 calendar for the remaining hearing this year.

DICKGRAFE So, we do not have a meeting?

MCNEELY Right. But that is the schedule, if you use a date book or a PDA or anything else that you schedule your events with, I suggest that you load it in there. Yolanda does a great effort to contact everyone and remind everyone of those meetings. Likewise, we send out a notice when we are having and not having a meeting. I request that you make that a priority; so, we do not have special meetings in the future. Looking at the by-laws, our by-laws do not address absences. I know the MAPC by-laws do address absences for the Planning Commissioners and after so many absences those commissioners can be replaced.

DICKGRAFE I think by City Ordinance members can be replaced after missing so many hearings.

McNEELY By separate ordinance, okay.

FOSTER How many meetings can they miss?

DICKGRAFE I believe that it is three but I will have to look. I know in the past we have had members who would miss and would get reappointed. It would require a reappointment by a council person. It is in the general board appointment in title 2 or title 3.

FOSTER It's not a problem often but with seven members one person not being counted on can be a problem. Then we have to have 4 out of six. It makes it more risky. I think we need to amend our by-laws and think about having it included. The reason is, at one time, I served on sixteen committees. I will tell you, it was very helpful to have it in that they did not meet the by-laws whereas right now we cannot tell them.

GREENLEE I think my understanding is the same as Sharon's. I think you have to miss 3 meetings in a row. Then the person who appointed you on the council has to come back a reappoint you.

DICKGRAFE I am not sure this board would have the authority to adopt a by-law that varies from the city ordinance. We already have an ordinance so I'm not sure if we need to amend the by-laws.

FOSTER Does the ordinance apply to this group?

GREENLEE It applies to all city groups.

DICKGRAFE It does.

FOSTER Are you saying we are in-effect for three meeting now?

DICKGRAFE I would need to look at the ordinance.

FOSTER We need to look at Mr. Blick's availability. It's very hard to reach him and we have not heard from him. She has tried at this office and his home. There needs to be a follow up letter stating that we need to have some contact. Let's clarify this three day misses.

GREENLEE It's three consecutive meeting misses.

FOSTER I think the wording is the problem sometimes it's three consecutive and three absences.

GREENLEE My understanding is 3 consecutive absences from regularly scheduled meetings. This was my first miss since my appointment.

ARBERTHA You called in advanced.

GREENLEE My message got lost.

ARBERTHA It is okay for two to call in and report no attendance but that shifts the burden to the remaining 5 and if two of them are missing then we have no quorum.

MARKHAM I saw Blick at the conference I attended.

McNEELY What conference was it?

MARKHAM National Neighborhood conference.

FOSTER Is there any thing else for the good of the cause?

MARKHAM I move that we adjourn.

ANTHIMIDES Second

FOSTER All in favor say aye.

MOTION CARRIED 5-0 UNANIMOUSLY

ADJOURMENT 2:37 PM

